

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**JAMES M. MARTIN,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** ) **CIVIL ACTION NO. 5:11-CV-192(MTT)**  
 )  
 **Lieutenant JOHNNY McDANIEL,** )  
 )  
 **Defendant.** )  
 )

## ORDER

Plaintiff James M. Martin, a prisoner currently confined at Wilcox State Prison in Abbeville, Georgia, has filed a Motion for Leave to Appeal *in forma pauperis* (Doc. 64) from this Court's Order (Doc. 62). In the Court's best judgment, an appeal from that Order cannot be taken in good faith. The Plaintiff's Motion for Leave to Appeal *in forma pauperis* is accordingly **DENIED**. See 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith."); Fed. R. App. P. 24(a)(3) ("A party who was permitted to proceed in forma pauperis in the district-court action ... may proceed on appeal *in forma pauperis* ... unless ... the district court ... certifies that the appeal is not taken in good faith.").

If the Plaintiff wishes to proceed with his appeal, he must pay the entire \$455.00 appellate filing fee. Because the Plaintiff has indicated that he cannot pay the \$455.00 immediately, he must pay using the partial payment plan described under 28 U.S.C. § 1915(b). Pursuant to § 1915(b), the prison account custodian where the Plaintiff is

incarcerated shall cause to be remitted to the Clerk of this Court monthly payments of 20% of the preceding month's income credited to the Plaintiff's account until the \$455.00 appellate filing fee has been paid in full. Twenty percent of any deposits into the prisoner's account shall be withheld by the prison account custodian who, on a monthly basis, shall forward the amount withheld from the prisoner's account to the Clerk of this Court each time the amount in the account exceeds \$10.00 until the total filing fee of \$455.00 has been paid. Checks should be made payable to "Clerk, U.S. District Court."

The Clerk of Court shall mail a copy of this Order to the custodian of the prison in which the Plaintiff is presently incarcerated.

**SO ORDERED**, this the 10th day of July, 2013.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT